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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,074	06/23/2006	Thomas Scherb	P28845	9642

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EXAMINER	
FORTUNA, JOSE A	

ART UNIT	PAPER NUMBER
1791	

NOTIFICATION DATE	DELIVERY MODE
04/01/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
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Office Action Summary	Application No.	Applicant(s)	
	10/560,074	SCHERB ET AL.	
	Examiner	Art Unit	
	José A. Fortuna	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 March 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *224-243 and 245-289* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *224-243, 245-289* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 228 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitations of claim 228 are inherently in the newly amended claim 224, i.e., as it now claimed claim 224 recites that the transfer device moves around the winding drum and that the winding drum forms a nip with the spool; which indicates that the transfer device is led through the winding nip, i.e., the limitation of claim 228.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 232, 252-253 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for drying hoods in cooperation with a drying cylinder, does not reasonably provide enablement for drying hoods without a drying cylinder as claimed. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims. It is clear from the figures that the drying hoods, see numerals **38** and **102** in the figures, are always part of a drying cylinder, especially part of Yankee Driers; yet the above claims do not require such cooperation, which then reads on unsupported embodiments, such as drying hoods used by themselves, i.e., with the cooperation of any drying cylinder

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 224-237, 240-241, 243, 255-256, 259-260, 264, 269 and 274-289 are rejected under 35 U.S.C. 102(e) as being Anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Clarke et al., US Patent Application Publication No. 2000/0111199 A1.

Clarke et al. teach a device for producing a tissue web which includes a drying cylinder, that could be a Yankee Dryer, a creping Doctor and winding device to reel-up the web onto a roll and a transfer device that carries the web from almost the entire run from the doctor blade to the winding roll, see figures, specially figure 4, and ¶-[0036]-[0038]. The figure show also that the web is unsupported, creating a free draw from short distance from the doctor to the beginning of the transfer device, and show that the web is supported on one side of the transfer device. Clarke teach also that the short Draw, (D) can be changed from 4 inches to 48 inches, (0.1 to 1.20 meters), which falls within the claimed range, see ¶-[0024]. Clarke et al. show also that the device can include a nip formed by a backing roll and the reel, figure 4, and ¶-[0036]-[0038]. Clarke et al. teach also that the transfer device can be a belt; preferably a permeable belt and that vacuum can be applied to the web through the permeable belt. The device can be a vacuum box

(34) or a device that creates under pressure by blowing air via the Coanda effect, ¶-[0030]-[00333] and Figures 4, below:

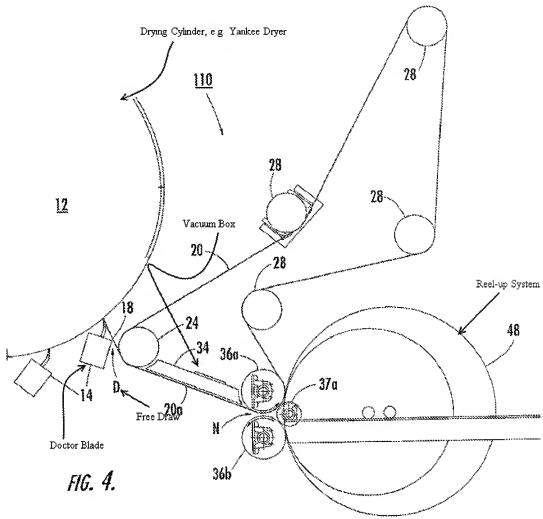

FIG. 4.

Note that Clark et al. show that the belt moves around a winding drum of the winding device, i.e., moves around the backing roll **(36a)** that form part of the winding device, see figure above, which is/are equivalent to the winding roll **107** of figure 1 of the current application and the web is supported in only one side on the transferring belt **20a**, which

reads on the newly added limitation. As to the force at the winding nip, this is functional limitation, which implies that the system is capable and controlled to produce the claimed nip pressure and the system show by the reference, Clark et al., is inherently capable of producing such pressure at the nip, since it has all the structural limitations of the claim(s). Therefore, the reference anticipates the claims or at least the minor modification(s) to obtain the claimed invention, i.e., to apply the claimed nip pressure, would have been obvious to one of ordinary skill in the art. Note also that it is know to keep the low lineal pressure at the nip, so not to densify the web.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 238-239, 242, 245-254, 257-258, 261-263, 265-268, 270-273 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke et al., cited above.

Clarke et al. invention has been already explained *supra*. They are silent with regard to the limitations of the above claims, e.g., the use of a multilayered headbox and its different modifications or the use of crescent formers, nor the specifics of the reel-up system, i.e., the control system, nor the use of a pulper underneath the reel-up or the drying machine. However all of those limitations are well known in the art as evidenced by the supplied prior art, see previous PTO-Form-892. Since the use of the claimed devices are conventional in the art, their use is within the levels of ordinary skill in the art, since he/she would have reasonable expectation of success if such devices were to be used in the system taught by Clarke et al. It has been held that it is obvious to try, choosing from a finite number of identified, predictable solutions with a reasonable expectation of success. See recent Board decision *Ex parte Smith*, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007) (Citing KSR, 82 USPQ2d at 1396).

Response to Arguments

10. Applicant's arguments with respect to claims 224-243, 245-289 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure in the art of "Device for Winding a Tissue Web."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José A. Fortuna whose telephone number is 571-272-1188. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/José A Fortuna/
Primary Examiner
Art Unit 1791

JAF